

Agency 99

**Kansas State Department of Agriculture—
Division of Weights and Measures**

Articles

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- 99-2. *SCALES. (Not in active use)*
- 99-3. *WEIGHTS. (Not in active use)*
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Article 1.—GENERAL CODE

99-1-1. (Authorized by K.S.A. 83-124a; effective Jan. 1, 1966; amended Jan. 1, 1971; amended May 1, 1978; revoked May 1, 1979.)

99-1-2. (Authorized by K.S.A. 83-124a; ef-

fective Jan. 1, 1966; amended May 1, 1978; revoked May 1, 1979.)

99-1-3 to 99-1-6. (Authorized by K.S.A. 83-124a; effective Jan. 1, 1966; amended Jan. 1, 1971; amended May 1, 1978; revoked May 1, 1979.)

Article 2.—SCALES

99-2-1. (Authorized by K.S.A. 83-124a; effective Jan. 1, 1966; amended May 1, 1978; revoked May 1, 1979.)

99-2-2. (Authorized by K.S.A. 83-124a; effective Jan. 1, 1966; amended Jan. 1, 1971; amended May 1, 1978; revoked May 1, 1979.)

99-2-3 to 99-2-6. (Authorized by K.S.A. 83-124a; effective Jan. 1, 1966; amended May 1, 1978; revoked May 1, 1979.)

99-2-7. (Authorized by K.S.A. 83-124a; effective Jan. 1, 1966; amended Jan. 1, 1971; amended May 1, 1978; revoked May 1, 1979.)

99-2-8. (Authorized by K.S.A. 83-124a; effective Jan. 1, 1966; amended Jan. 1, 1977; amended May 1, 1978; revoked May 1, 1979.)

Article 3.—WEIGHTS

99-3-1. (Authorized by K.S.A. 83-124a; effective Jan. 1, 1966; revoked May 1, 1979.)

99-3-2. (Authorized by K.S.A. 83-124a; effective Jan. 1, 1966; amended Jan. 1, 1971; revoked May 1, 1979.)

99-3-3. (Authorized by K.S.A. 83-124a; effective Jan. 1, 1966; revoked May 1, 1979.)

Article 4.—LIQUEFIED PETROLEUM GAS LIQUID-MEASURING DEVICES

99-4-1. (Authorized by K.S.A. 83-147; effective Jan. 1, 1966; revoked May 1, 1979.)

99-4-2 and 99-4-3. (Authorized by K.S.A. 83-147; effective Jan. 1, 1966; amended Jan. 1, 1971; revoked May 1, 1979.)

99-4-4. (Authorized by K.S.A. 83-147; effective Jan. 1, 1966; revoked May 1, 1979.)

99-4-5. (Authorized by K.S.A. 83-147; effective Jan. 1, 1966; amended Jan. 1, 1971; revoked May 1, 1979.)

99-4-6. (Authorized by K.S.A. 83-147; effective Jan. 1, 1966; revoked May 1, 1979.)

Article 5.—LIQUID-MEASURING DEVICES

99-5-1. (Authorized by K.S.A. 83-124a; effective Jan. 1, 1966; revoked May 1, 1979.)

99-5-2 to 99-5-5. (Authorized by K.S.A.

83-124a; effective Jan. 1, 1966; amended Jan. 1, 1971; revoked May 1, 1979.)

Article 6.—VEHICLE TANKS USED AS MEASURES

99-6-1. (Authorized by K.S.A. 83-124a; effective Jan. 1, 1966; revoked May 1, 1979.)

99-6-2. (Authorized by K.S.A. 83-124a; effective Jan. 1, 1966; amended Jan. 1, 1971; revoked May 1, 1979.)

99-6-3 to 99-6-5. (Authorized by K.S.A. 83-124a; effective Jan. 1, 1966; revoked May 1, 1979.)

Article 7.—FARM MILK TANKS

99-7-1 and 99-7-2. (Authorized by K.S.A. 83-124a; effective Jan. 1, 1966; amended Jan. 1, 1971; revoked May 1, 1979.)

99-7-3. (Authorized by K.S.A. 83-124a; effective Jan. 1, 1966; revoked May 1, 1979.)

99-7-4 and 99-7-5. (Authorized by K.S.A. 83-124a; effective Jan. 1, 1966; amended Jan. 1, 1971; revoked May 1, 1979.)

Article 8.—PACKAGE LABELING; EXEMPTIONS, MARKINGS, VARIATIONS

99-8-1 to 99-8-7. (Authorized by K.S.A. 83-150; effective Jan. 1, 1966; revoked May 1, 1982.)

99-8-8. (Authorized by K.S.A. 83-207; implementing K.S.A. 83-211 and 83-213; effective May 1, 1982; amended May 1, 1988; amended Oct. 21, 1991; revoked Jan. 18, 2002.)

99-8-9. (Authorized by K.S.A. 83-207; implementing K.S.A. 83-211 and 83-213; effective May 1, 1988; amended Oct. 21, 1991; revoked Jan. 18, 2002.)

Article 9.—MEAT, POULTRY AND SEAFOOD

99-9-1. (Authorized by K.S.A. 83-124a; effective Jan. 1, 1966; revoked Jan. 18, 2002.)

Article 10.—EXEMPTIONS FOR CERTAIN PACKAGES

99-10-1. (Authorized by K.S.A. 83-124a; effective Jan. 1, 1966; revoked Jan. 18, 2002.)

**Article 11.—BELT-CONVEYOR
SCALES**

99-11-1 to 99-11-4. (Authorized by K.S.A. 83-124a; effective Jan. 1, 1971; revoked May 1, 1979.)

Article 12.—VEHICLE-TANK METERS

99-12-1 to 99-12-11. (Authorized by K.S.A. 83-124a; effective Jan. 1, 1971; revoked May 1, 1979.)

Article 13.—MEASURE-CONTAINERS

99-13-1 to 99-13-5. (Authorized by K.S.A. 83-124a; effective Jan. 1, 1971; revoked May 1, 1979.)

Article 14.—MILK BOTTLES

99-14-1 to 99-14-5. (Authorized by K.S.A. 83-124a; effective Jan. 1, 1971; revoked May 1, 1979.)

**Article 15.—LUBRICATING OIL
BOTTLES**

99-15-1 to 99-15-5. (Authorized by K.S.A. 83-124a; effective Jan. 1, 1971; revoked by L. 1978 ch. 389, May 1, 1978.)

Article 16.—GRADUATES

99-16-1 to 99-16-4. (Authorized by K.S.A. 83-124a; effective Jan. 1, 1971; revoked May 1, 1979.)

Article 17.—LINEAR MEASURES

99-17-1 to 99-17-3. (Authorized by K.S.A. 83-124a; effective Jan. 1, 1971; revoked May 1, 1979.)

**Article 18.—FABRIC MEASURING
DEVICES**

99-18-1 to 99-18-5. (Authorized by K.S.A. 83-124a; effective Jan. 1, 1971; revoked May 1, 1979.)

**Article 19.—WIRE AND
CORDAGE-MEASURING DEVICES**

99-19-1 to 99-19-3. (Authorized by K.S.A. 83-124a; effective Jan. 1, 1971; revoked May 1, 1979.)

Article 20.—TAXIMETERS

99-20-1 to 99-20-5. (Authorized by K.S.A. 83-124a; effective Jan. 1, 1971; revoked May 1, 1979.)

Article 21.—ODOMETERS

99-21-1 to 99-21-5. (Authorized by K.S.A. 83-124a; effective Jan. 1, 1971; revoked May 1, 1979.)

Article 22.—DRY MEASURES

99-22-1 to 99-22-4. (Authorized by K.S.A. 83-124a; effective Jan. 1, 1971; revoked May 1, 1979.)

**Article 23.—BERRY BASKETS
AND BOXES**

99-23-1 to 99-23-3. (Authorized by K.S.A. 83-124a; effective Jan. 1, 1971; revoked May 1, 1979.)

Article 24.—LIQUID MEASURES

99-24-1 to 99-24-3. (Authorized by K.S.A. 83-124a; effective Jan. 1, 1971; revoked May 1, 1979.)

**Article 25.—TECHNICAL
REQUIREMENTS FOR WEIGHING
AND MEASURING DEVICES**

99-25-1. Adoption by reference, exceptions; availability of copies. (a) Except for the codes pertaining to grain moisture meters, secs. 5.56(a) and 5.56(b), and the use requirements for ticket printers on vehicle-tank meters, sec. 3.31.UR.2, the “specifications, tolerances, and other technical requirements for weighing and measuring devices, as adopted by the 91st national conference on weights and measures 2006,” including the appendices, published by the national institute of standards and technology, Washington, D.C., as the 2007 edition of the national institute of standards and technology handbook 44 and issued in October 2006, is hereby adopted by reference and shall apply to commercial, data-gathering, and weighing and measuring devices in the state.

(b) Each vehicle-mounted metering system manufactured on or after January 1, 1995 shall be equipped with a ticket printer. A copy of the ticket issued by the vehicle-mounted metering system

shall be given to the customer at the time of delivery or as otherwise specified by the customer.

(c) Copies of the handbook adopted by this regulation or pertinent portions from it shall be available from the office of weights and measures, Kansas department of agriculture, Topeka, Kansas. (Authorized by and implementing K.S.A. 83-207; effective May 1, 1979; amended May 1, 1981; amended May 1, 1986; amended Aug. 14, 1989; amended Oct. 21, 1991; amended March 6, 1998; amended March 5, 1999; amended Jan. 18, 2002; amended Aug. 26, 2005; amended Feb. 8, 2008.)

99-25-2. (Authorized by and implementing K.S.A. 83-207; effective May 12, 1979; amended May 1, 1986; amended Oct. 21, 1991; revoked March 6, 1998.)

99-25-3. Certificate of conformance. (a) No person shall use a weighing or measuring device for commercial purposes within the state of Kansas unless a certificate of conformance has been obtained for the weighing or measuring device before its use for commercial purposes within the state of Kansas.

(b) For the purpose of this regulation, a “certificate of conformance” means a document issued by the national institute of standards and technology, national conference on weights and measures, or other authorized laboratory establishing that the weight or measure or weighing or measuring instrument or device meets the requirements of the national institute of standards and technology handbook 44 as adopted by reference in K.A.R. 99-25-1.

(c) Any certificate of performance issued by the national bureau of standards or other authorized laboratory establishing that the weighing or measuring device meets the requirements of the national bureau of standards handbook 44 as previously adopted by reference in K.A.R. 99-25-1 on and after May 1, 1986 may be accepted in lieu of the certificate of conformance required in subsection (b) of this regulation.

(d) This regulation shall not apply to a weighing or measuring device manufactured and installed in the state before May 1, 1986. This regulation shall not apply to a one-of-a-kind device or type of weighing and measuring device for which there are no weighing and measuring devices that are traceable to a certificate of conformance if the weighing or measuring device complies with the applicable requirements, including permanence, of the national institute of standards

and technology handbook 44 as adopted by reference in K.A.R. 99-25-1. (Authorized by and implementing K.S.A. 83-207; effective May 1, 1986; amended Aug. 14, 1989; amended Oct. 21, 1991; amended Jan. 18, 2002.)

99-25-4. Continuing education requirements for technical representatives. (a) Before the license of a technical representative is issued or renewed by the Kansas department of agriculture, the technical representative shall complete a minimum of four clock-hours of verifiable continuing education for each category of weighing or measuring devices. The continuing education shall consist of educational seminars regarding the following topics:

(1) The installation, calibration, or repairing of a weighing or measuring device;

(2) the applicable state weights and measures laws or regulations;

(3) the applicable handbooks adopted by reference in these regulations;

(4) the information required on testing and reporting forms; and

(5) the proper method for testing weights and measures and weighing and measuring devices.

(b) All training or continuing education not conducted by the Kansas department of agriculture or representatives of the department shall be approved by the secretary before the training or continuing education is applied toward the requirements for continuing education. (Authorized by K.S.A. 83-207 and K.S.A. 2000 Supp. 55-442; implementing K.S.A. 2000 Supp. 55-442, K.S.A. 83-302, as amended by L. 2001, Ch. 5, Sec. 483, and K.S.A. 83-402, as amended by L. 2001, Ch. 5, Sec. 484; effective March 6, 1998; amended Jan. 18, 2002.)

99-25-5. Renewal of a technical representative’s license. The license of any technical representative may be renewed for a succeeding one-year period if the technical representative pays the fees prescribed by law, completes the renewal application form provided by the secretary, completes successfully the training in approved subjects during the effective period of the technical representative’s license, and successfully passes the examination administered by the secretary. The service company shall verify and maintain records to support the verification that each technical representative it employs has satisfactorily completed the training required for renewal. (Authorized by K.S.A. 83-207 and K.S.A.

1996 Supp. 55-442; implementing K.S.A. 1996 Supp. 83-302 and K.S.A. 83-404; effective March 6, 1998.)

99-25-6. Notification of nonconforming weighing or measuring device. (a) Each service company shall notify the weights and measures office by telephone, facsimile, mail, or e-mail within 48 hours of any attempt to calibrate, repair, or adjust a measuring or weighing device that cannot be certified as conforming with all applicable tolerances, specifications, and requirements. The notification shall contain the following information:

(1) The location of the weighing or measuring device;

(2) the weighing or measuring device's serial number, identification number, or any other identifying number;

(3) the name of the technical representative or representatives who attempted to calibrate, repair, or adjust the device;

(4) the date on which the calibration, repair, or adjustment was attempted; and

(5) a description of the factors that the technical representative determined were preventing the device from being repaired or adjusted in order to meet all applicable tolerances, specifications, and requirements.

(b) If a service company sends in a report by a telephone, facsimile, or e-mail, the service company shall mail a hard copy of the same information to the weights and measures office within seven days of the date of the attempt to repair, adjust, or calibrate the weighing and measuring device.

(c) Each report mailed to the administrator shall be considered timely if it is postmarked by the second business day following the unsuccessful attempt to calibrate, repair, or adjust the weighing and measuring device described in the report. (Authorized by K.S.A. 83-207 and K.S.A. 2000 Supp. 55-442; implementing K.S.A. 2000 Supp. 55-442, K.S.A. 83-222, and K.S.A. 83-404, as amended by L. 2001, Ch. 175, Sec. 7; effective March 6, 1998; amended Jan. 18, 2002.)

99-25-7. Reporting requirements. The service company or the city or county department of public inspections of weights and measures shall send a copy of the appropriate report to the weights and measures office within 10 days after a test or inspection in which any of the following

devices is found to be within applicable tolerances, standards, and requirements:

- (a) Large capacity scale;
- (b) small capacity scale;
- (c) vehicle tank meter; or
- (d) LPG meter.

Each report shall be submitted on a form obtained from the office of weights and measures, Kansas department of agriculture. (Authorized by K.S.A. 83-207 and K.S.A. 2000 Supp. 55-442; implementing K.S.A. 2000 Supp. 55-442, K.S.A. 2000 Supp. 83-304, as amended by L. 2001, Ch. 172, Sec. 6, K.S.A. 83-215, and K.S.A. 83-404, as amended by L. 2001, Ch. 175, Sec. 7; effective March 6, 1998; amended Jan. 18, 2002.)

99-25-8. Record retention. Each service company and each owner of a weighing and measuring device shall keep all records as required by K.S.A. 83-304(d) and K.S.A. 83-404(d), respectively, for a period of five years. (Authorized by K.S.A. 1996 Supp. 83-207 and K.S.A. 1996 Supp. 55-442; implementing K.S.A. 1996 Supp. 83-304, as amended by L. 1997, Ch. 89, Sec. 1, and K.S.A. 1996 Supp. 83-404; effective March 6, 1998.)

99-25-9. Adoption by reference. Except as specified in subsection (c), the following uniform regulations published by the national institute of standards and technology, Washington, D.C., in the 2006 edition of national institute of standards and technology handbook 130 titled "uniform laws and regulations in the areas of legal metrology and engine fuel quality, as adopted by the 90th national conference on weights and measures 2005," and issued in October 2005, are hereby adopted by reference and shall apply to weighing and measuring devices in the state: (a) "Uniform packaging and labeling regulation";

(b) "uniform regulation for the method of sale of commodities"; and

(c) "uniform engine fuels, petroleum products, and automotive lubricants regulation," except for the following sections:

(1) 3.2.6 and 3.8, which pertain to oxygenates and fuel ethanol;

(2) 2.15, which pertains to the testing standard for B100 biodiesel; and

(3) 2.16, which pertains to the testing standard for biodiesel blends.

Copies of the adopted material or the pertinent portions of it shall be available from the office of weights and measures, Kansas department of agriculture, Topeka, Kansas. (Authorized by and im-

plementing K.S.A. 55-442; effective Jan. 18, 2002; amended Aug. 26, 2005; amended Feb. 8, 2008.)

99-25-10. Retail dispenser labeling.

Each retail dispenser of fuel ethanol shall be labeled with the capital letter “E” followed by the percentage of denatured ethanol, by volume, and ending with the word “ethanol” if the percentage of fuel ethanol, by volume, exceeds 10 percent. (Authorized by and implementing K.S.A. 2004 Supp. 55-442; effective Aug. 26, 2005.)

99-25-11. Motor fuel defined; testing standards. (a) “Motor fuel” shall include the following fuel products used for the generation of power in an internal combustion engine, in addition to the fuel products specified in K.S.A. 55-422 and amendments thereto:

- (1) B100 biodiesel fuel;
- (2) biodiesel blended fuels;
- (3) gasoline-ethanol blended fuels; and
- (4) diesel-ethanol blended fuels.

(b) All B100 biodiesel fuel shall meet the requirements of ASTM D 6751-07b, “standard specification for biodiesel fuel (B100) blend stock for distillate fuels.”

(c) All blends of biodiesel and diesel fuels shall meet the following requirements:

(1) The base diesel fuel shall meet the requirements of ASTM 975-07b, “standard specification for diesel fuel oils”; and

(2) the biodiesel blend stock shall meet the requirements of ASTM 6751-07b, “standard specification for biodiesel fuel (B100) blend stock for distillate fuels.” (Authorized by and implementing K.S.A. 2007 Supp. 55-422 and K.S.A. 55-442; effective Feb. 8, 2008.)

Article 26.—FEES

99-26-1. Fees. (a) The following fees and other necessary and incidental expenses incurred shall be charged for requested services rendered by the secretary or the secretary’s authorized representative in conjunction with the testing, proving, or evaluation of weights, measures, and devices, at the following rates:

(1) The testing and proving of mass, volume, length, and other standards by the metrology laboratory at the rate of \$50.00 per hour or fraction thereof;

(2) the testing and proving of a grain hopper scale and any weights, measures, and other de-

vices that are used in conjunction with it at the rate of \$50.00 per hour or fraction thereof; and

(3) conducting or assisting with an evaluation for a national conference on weights and measures certificate of conformance at the rate of \$75.00 per hour or fraction thereof.

(b) In addition to the hourly rates specified in subsection (a), expenses incurred by personnel, including meals, lodging, transportation, and mileage to and from their duty station to the point of testing, equipment, and other incidentals, may be charged. (Authorized by K.S.A. 83-207; implementing K.S.A. 83-214, as amended by L. 2001, Ch. 5, Sec. 482; effective, T-83-25, Sept. 1, 1982; effective May 1, 1983; amended, T-99-11-14-90, Nov. 14, 1990; amended Jan. 14, 1990; amended June 9, 2000; amended Jan. 18, 2002.)

Article 27.—CIVIL PENALTY

99-27-1. Civil penalty. Civil penalties shall be assessed based on the harm caused by the violation, the nature and persistence of the violation, the length of time over which the violation occurs, any corrective action taken, and any and all relevant circumstances. The penalty shall be based on the following chart. After the maximum penalty is assessed for any violation, the next range of penalties may be applied for any repeat offense.

1 = A penalty ranging from \$1,001 to \$5,000 per violation.

2 = A penalty ranging from \$501 to \$1,000.

3 = A penalty ranging from \$100 to \$500 per violation.

Violation	Penalty		
Offering, exposing for sale, or disposing of an incorrect device, when committed by a service company	1		
Offering, exposing for sale, or disposing of an incorrect device for which a stop-use order has been issued, when committed by an individual	1		
Offering, exposing for sale, or disposing of an incorrect device for which a stop-use order has not been issued, when committed by an individual		2	

Violation	Penalty		
Using or possessing an incorrect weighing or measuring device after being informed that device is incorrect		2	
Unknowingly using or possessing an incorrect weighing or measuring device			3
Without authorization, breaking or removing any tag, mark, or seal on devices or packages whose retail worth is less than or equal to \$1,000		2	
Without authorization, breaking or removing any tag, mark, or seal on packages whose retail worth is greater than \$1,000	1		
Selling, offering, or exposing for sale less than the represented quantity of any commodity, thing, or service that has a retail value less than or equal to \$500			3
Selling, offering, or exposing for sale, less than the represented quantity of any commodity, thing, or service that has a retail value greater than \$500		2	
Repeatedly selling, offering, or exposing for sale, less than the represented quantity of any commodity, thing, or service that has a retail value less than or equal to \$500		2	
Repeatedly selling, offering, or exposing for sale, less than the represented quantity of any commodity, thing, or service that has a retail value greater than \$500	1		
Unknowingly taking or attempting to take more of the represented quantity of any commodity, thing, or service that has a retail value less than or equal to \$500			3

Violation	Penalty		
Unknowingly taking or attempting to take more of the represented quantity of any commodity, thing, or service that has a retail value greater than \$500		2	
Repeatedly taking or attempting to take more of the represented quantity of any commodity, thing, or service that has a retail value less than or equal to \$500		2	
Repeatedly taking or attempting to take more of the represented quantity of any commodity, thing, or service that has a retail value greater than \$500	1		
Keeping for the purpose of sale or offering or exposing for sale any commodity that is labeled in a manner contrary to law			3
Using a device that is not positioned so that a customer may view its indications			3
Selling, offering for sale or use, or possessing for the purpose of selling or using any device or instrument to be used or calculated to falsify any weight or measure	1		
Disposing of any rejected weight or measure contrary to law or rules and regulations			3
Exposing or offering for sale commodities that are in misleading packaging			3
Repeatedly and after notification by the division of weights and measures, exposing or offering for sale commodities that are in misleading packaging	1		
Misrepresenting or representing in a manner tending to mislead or deceive an actual or prospective purchaser, the price of an item offered, exposed, or advertised for sale at retail			3

Violation	Penalty		
Misrepresenting or representing in a manner calculated to mislead or deceive an actual or prospective purchaser, the price of an item offered, exposed, or advertised for sale at retail	1		
Unknowingly using a device that does not correctly compute total price			3
Knowingly using a device that does not correctly compute total price	1		
Charging or attempting to charge a value that is more than the advertised price for an item or commodity at the time of sale			3
Charging or attempting to charge an incorrect price at the time of sale of an item when more than 24 hours have passed after being informed by the division of weights and measures that the price was incorrect		2	
Altering a weight certificate, or using or attempting to use such a certificate for the purpose of altering a weight or delivery, or both	1		
Hindering or obstructing the secretary or an authorized agent in the performance of official duties	1		
Failing to pay all fees and penalties	1		
Failing to keep all inspection reports		2	
Failing to make available all inspection reports	1		
Failing to have any commercial weight, measure, or weighing and measuring device tested			3
Selling or offering or exposing for sale LPG in packages or containers that are not labeled properly			3

Violation	Penalty		
Selling, using, removing or otherwise disposing of, or failing to remove from the premises specified, any weighing or measuring device or package or commodity contrary to the terms of any order issued by the secretary	1		
Violating any order issued by the secretary	1		
Acting as or representing such person's self to be a technical representative without having a valid license	1		
Certifying as correct an inaccurate device			3
Certifying as correct an inaccurate device and not following established test procedures		2	
Failing to complete the proper forms in their entirety			3
Filing false reports	1		
Selling a weighing and measuring device that does not have an NTEP certificate of conformance	1		
Failing to notify the secretary within 48 hours of a weighing or measuring device that cannot be approved			3
Offering, selling, or exposing for sale fuel that does not conform to the applicable fuel quality standards			3
Repeatedly offering, selling, or exposing for sale fuel that does not conform to the applicable fuel quality standards		2	
Failing to take proper precautions to prevent the offering, selling, or exposing for sale of fuel that does not conform to the applicable fuel quality standards	1		
Knowingly offering, selling, or exposing for sale fuel that does not conform to the applicable fuel quality standards	1		

(Authorized by and implementing K.S.A. 83-502, K.S.A. 1999 Supp. 55-442, and K.S.A. 1999 Supp. 55-443; effective March 6, 1998; amended June 9, 2000.)

99-27-2. Civil penalty; order. Each order that assesses a civil penalty shall include the following elements:

- (a) A statement reciting each subsection of the act authorizing the assessment of a civil penalty;
- (b) a specific reference to each provision of the act or implementing regulation that the respondent is alleged to have violated;
- (c) a concise statement of the factual basis for each alleged violation;
- (d) the amount of the civil penalty; and
- (e) a notice of the respondent's right to request a hearing. (Authorized by K.S.A. 55-442 and K.S.A. 2007 Supp. 83-403; implementing K.S.A. 55-443, K.S.A. 2007 Supp. 83-501, and K.S.A. 2007 Supp. 83-502; effective March 6, 1998; amended Jan. 18, 2002; amended July 18, 2008.)

99-27-3. (Authorized by K.S.A. 83-403 and K.S.A. 2000 Supp. 55-442; implementing K.S.A. 2000 Supp. 55-443, as amended by L. 2001, Ch. 5, Sec. 195, K.S.A. 83-501, as amended by L. 2001, Ch. 5, Sec. 485 and K.S.A. 83-502, as amended by L. 2001, Ch. 5, Sec. 486; effective March 6, 1998; amended Jan. 18, 2002; revoked July 18, 2008.)

99-27-4. Informal settlement. (a) Any respondent may request an informal settlement conference if the respondent timely filed a written request for a hearing. The request may be contained in the respondent's request for a hearing. The request shall be made before the prehearing conference.

(b) If a settlement is reached, the parties shall reduce the settlement to writing and present the proposed written consent agreement to the secretary. The consent agreement shall state that, for the purpose of the proceeding, the following conditions are met:

- (1) The respondent admits the jurisdictional allegations and admits the facts stipulated in the consent agreement.
- (2) The respondent neither admits nor denies the specific violations contained in the order.
- (3) The respondent consents to the assessment of a stated civil penalty, if any is assessed.

The consent agreement shall include all terms of the agreement and shall be signed by all parties

or their counsel. (Authorized by K.S.A. 55-442 and K.S.A. 2007 Supp. 83-403; implementing K.S.A. 55-443, K.S.A. 2007 Supp. 83-501, and K.S.A. 2007 Supp. 83-502; effective March 6, 1998; amended Jan. 18, 2002; amended July 18, 2008.)

99-27-5. Adjusting the amount of the civil penalty. (a) At the informal settlement conference, each respondent shall present all evidence relating to adjustment of the civil penalty. This evidence may include mitigating factors or new evidence not previously known to the secretary when the order was issued.

(b) If the respondent presents new evidence establishing facts and circumstances that were unknown to the secretary when the order was issued, one of the following shall apply:

(1) If the new evidence relates to the gravity of the violation, an adjustment may be made to the civil penalty.

(2) If the new evidence establishes that a respondent did not commit the violation, the order shall be amended or vacated.

(c) Each respondent shall have the burden of presenting evidence of any mitigating factors to support any requested reduction in the amount of the civil penalty. The amount of the civil penalty may be reduced if the reduction serves the public interest.

(d) The amount of a civil penalty shall not be reduced to less than \$100 per offense.

(1) The decision regarding reduction of a civil penalty shall lie solely within the discretion of the secretary or the secretary's designee.

(2) A civil penalty shall not be reduced unless evidence of mitigating factors has been presented by the respondent. (Authorized by K.S.A. 55-442 and K.S.A. 2007 Supp. 83-403; implementing K.S.A. 55-443, K.S.A. 2007 Supp. 83-501, and K.S.A. 2007 Supp. 83-502; effective March 6, 1998; amended Jan. 18, 2002; amended July 18, 2008.)

Article 28 to 29.—RESERVED

Article 30.—LARGE CAPACITY SCALES; TESTING AND SERVICE

99-30-1. Reserved.

99-30-2. Registration form. Each application for issuance or renewal of a scale testing

and service company license shall provide the following information:

(a) The name and business address of the applicant;

(b) the name, home address, social security number, and date of birth of all technical representatives who repair, calibrate, adjust, or test scales for the applicant;

(c) the signature and title of the applicant or representative;

(d) the date of submission of the application;

(e) a certification that the applicant is fully qualified to install, service, repair, or recondition scales; and

(f) a certification that the applicant has in possession or available for use sufficient standards and equipment adequate to test scales. (Authorized by K.S.A. 83-303; implementing K.S.A. 83-302, as amended by L. 2001, Ch. 5, Sec. 483; effective May 1, 1986; amended Oct. 21, 1991; amended Jan. 18, 2002.)

99-30-3. Conformance with handbook

44. Each scale testing and service company shall conduct each test and make each repair to scales in conformance with the requirements of the national institute of standards and technology handbook 44 as adopted by reference in K.A.R. 99-25-1. Copies of this material or the pertinent portions of it shall be available from the office of weights and measures, Kansas department of agriculture, Topeka, Kansas. (Authorized by and implementing K.S.A. 83-303; effective May 1, 1986; amended Oct. 21, 1991; amended Jan. 18, 2002.)

99-30-4. Minimum required equipment.

Each scale testing and service company shall have at each place of business sufficient standards and equipment to adequately test scales as specified in the notes section of the general code and in the scale code contained in the national institute of standards and technology handbook 44, as adopted by reference in K.A.R. 99-25-1. (Authorized by and implementing K.S.A. 83-303; effective May 1, 1986; amended Oct. 21, 1991; amended Jan. 18, 2002.)

99-30-5. Removal of rejection tags.

(a) For the purpose of testing or repairing a scale, any licensed scale testing and service company may remove an official rejection tag or other mark placed on a scale by authority of the secretary.

(b) After the test is conducted and necessary repairs are completed, the scale testing and serv-

ice company shall place the scale in service. If the scale is not repaired properly, the scale testing and service company shall replace the rejection tag or other mark with a substitute rejection tag or other mark supplied by the secretary.

(c) After removing an official rejection tag for the purpose of repairing a scale, the scale testing and service company shall send a completed inspection or test report and the official rejection tag to the weights and measures office within 10 days after the date of removing the official rejection tag. The completed inspection or test report may be submitted by facsimile. The inspection or test report or other attached document shall detail all repairs made, and the testing shall be conducted to ensure that the scale is in compliance with Kansas law and K.A.R. 99-25-1.

(d) Any licensed scale testing and service company may file reports required by this regulation by means of facsimile. If the reports are sent to the weights and measures office by facsimile, the original shall be mailed to the weights and measures office within 10 days after the date of the test or inspection. Notifications mailed to the administrator shall be considered timely if they are postmarked on or before the 10th day following the calibration, repair, or adjustment described in the notification.

(e) This regulation shall apply to new and used scales. (Authorized by K.S.A. 83-207, 83-303 and K.S.A. 2000 Supp. 55-442; implementing K.S.A. 2000 Supp. 55-442, K.S.A. 83-222 and K.S.A. 83-404, as amended by L. 2001, Ch. 175, Sec. 7; effective May 1, 1986; amended Oct. 21, 1991; amended March 6, 1998; amended Jan. 18, 2002.)

99-30-6. Placed-in-service report.

Each scale testing and service company shall submit to the secretary a placed-in-service report, also referred to as the DI-701 report, within 10 days after a scale has been restored to service or placed in service. The placed-in-service report shall be executed in triplicate. The scale testing and service company shall mail to the secretary the original report and each official rejection tag removed from the device. A duplicate copy of the report shall be delivered to the owner or operator of the device. The scale testing and service company shall retain the third copy of the report. (Authorized by and implementing K.S.A. 83-303; effective May 1, 1986; amended Oct. 21, 1991; amended March 6, 1998; amended Jan. 18, 2002.)

Article 31.—MOTOR-VEHICLE FUEL MEASURING DEVICES

99-31-1. Definition. “Dispensing device” means any liquefied petroleum gas, motor-vehicle fuel or liquid fuel dispensing pumps, meters or other similar measuring devices and vehicle tanks used in the transportation of liquefied petroleum gas, motor-vehicle fuels or liquid fuels. (Authorized by and implementing K.S.A. 1987 Supp. 83-403; effective May 1, 1986; amended March 20, 1989.)

99-31-2. Registration form. Each application for issuance or renewal of a testing service company license shall provide the following information: (a) The name and business address of the applicant;

(b) the name, home address, social security number, and date of birth of all technical representatives who repair, calibrate, adjust, or test dispensing devices for the applicant;

(c) the signature and title of the applicant or representative;

(d) the date of submission of the application;

(e) a certification that the applicant is fully qualified to install, service, repair, or recondition dispensing devices; and

(f) a certification that the applicant has in its possession or available for use sufficient standards and equipment adequate to test dispensing devices. (Authorized by K.S.A. 83-403; implementing K.S.A. 83-402, as amended by L. 2001, Ch. 5, Sec. 484; effective May 1, 1986; amended Dec. 26, 1988; amended Jan. 18, 2002.)

99-31-3. Conformance with handbook 44. Each testing service company shall conduct each test and make each repair to dispensing devices in conformance with the requirements of the national institute of standards and technology handbook 44 as adopted by reference in K.A.R. 99-25-1. Copies of this material or the pertinent portions of it shall be available from the office of weights and measures, Kansas department of agriculture, Topeka, Kansas. (Authorized by and implementing K.S.A. 83-403; effective May 1, 1986; amended Dec. 26, 1988; amended Oct. 21, 1991; amended Jan. 18, 2002.)

99-31-4. Minimum required equipment. Each testing service company shall have at each place of business sufficient standards and equipment to adequately test dispensing devices as specified in the notes section of the general code,

and in the liquid-measuring device code, vehicle-tank meter code, and LPG liquid-measuring device code contained in the national institute of standards and technology handbook 44, as adopted by reference in K.A.R. 99-25-1. (Authorized by and implementing K.S.A. 83-403; effective May 1, 1986; amended Dec. 26, 1988; amended Oct. 21, 1991; amended Jan. 18, 2002.)

99-31-5. Removal of rejection tags. (a) For the purpose of testing or repairing a dispensing device, any licensed testing service company may remove an official rejection tag or other mark placed on a dispensing device by authority of the secretary.

(b) After the test is conducted and necessary repairs are completed, the testing service company shall place the dispensing device in service until examination by the secretary. If the dispensing device is not repaired properly, the testing service company shall replace the rejection tag or other mark with a substitute rejection tag or other mark supplied by the secretary.

(c) After removing an official rejection tag for the purpose of repairing a device, the service company shall send a completed inspection or test report and the official rejection tag to the weights and measures office within 10 days from the date of removing the official rejection tag. The completed inspection or test report may be submitted by means of facsimile. The inspection or test report or other attached document shall detail all repairs made, and the testing shall be conducted to ensure that the device is in compliance with Kansas law and K.A.R. 99-25-1.

(d) Any licensed testing service company may file notifications or reports required by this regulation by means of facsimile. Notifications or reports mailed to the administrator shall be considered timely if they are postmarked on or before the 10th day following the calibration, repair, or adjustment described in the notification or report.

(e) This regulation shall apply to new and used dispensing devices. (Authorized by K.S.A. 2000 Supp. 55-442, K.S.A. 83-207, and K.S.A. 83-403; implementing K.S.A. 2000 Supp. 55-442, K.S.A. 83-207, 83-222, 83-403, and 83-404, as amended by L. 2001, Ch. 175, Sec. 7; effective May 1, 1986; amended Dec. 26, 1988; amended March 6, 1998; amended Jan. 18, 2002.)

99-31-6. Placed-in-service report. Each testing service company shall submit to the secretary a placed-in-service report, also referred to

as the DI-701 report, within 10 days after a dispensing device has been restored to service or placed in service. The placed-in-service report shall be executed in triplicate. The testing service company shall mail to the secretary the original of the properly executed report, together with any official rejection tag removed from the device. A duplicate copy of the report shall be delivered to the owner or operator of the dispensing device while the third copy of the report shall be retained by the testing service company. (Authorized by and implementing K.S.A. 83-403; effective May 1, 1986; amended Dec. 26, 1988; amended March 6, 1998; amended Jan. 18, 2002.)

**Article 32.—SMALL CAPACITY SCALES;
TESTING AND SERVICE**

99-32-1. (Authorized by and implementing K.S.A. 1986 Supp. 83-207; effective May 1, 1986; amended May 1, 1988; revoked Oct. 21, 1991.)

99-32-2. (Authorized by K.S.A. 1986 Supp. 83-206; effective May 1, 1986; amended May 1, 1988; revoked Oct. 21, 1991.)

99-32-3. (Authorized by and implementing K.S.A. 1986 Supp. 83-207; effective May 1, 1986; amended May 1, 1988; revoked Oct. 21, 1991.)

99-32-4. (Authorized by K.S.A. 1986 Supp. 83-207; implementing K.S.A. 1986 Supp. 83-206; effective May 1, 1986; amended May 1, 1988; revoked Oct. 21, 1991.)

99-32-5. (Authorized by K.S.A. 1986 Supp. 83-207; implementing K.S.A. 1986 Supp. 83-206, 215 and 219; effective May 1, 1986; amended May 1, 1988; revoked Oct. 21, 1991.)

99-32-6. (Authorized by K.S.A. 1986 Supp. 83-207; implementing K.S.A. 1986 Supp. 83-206, 215 and 219; effective May 1, 1986; amended May 1, 1988; revoked Oct. 21, 1991.)

Articles 33 to 39.—RESERVED

**Article 40.—PETROLEUM
MEASUREMENT**

99-40-1. (Authorized by K.S.A. 1989 Supp. 55-429 and K.S.A. 83-207; implementing K.S.A. 1989 Supp. 55-424 and K.S.A. 83-206; effective Jan. 14, 1991; revoked Jan. 18, 2002.)

99-40-3. Invoice disclosure requirements for wholesalers and distributors of gas-

olines. (a) Each distributor or wholesaler of gasoline shall provide the following information to the purchaser at the time of delivery:

(1) The minimum octane of the product as determined by the (R+M)/2 method;

(2) for diesel fuel, the grade, minimum flash point, and American petroleum institute gravity of the product;

(3) the terminal of origin of the product;

(4) the destination of the product;

(5) the name of the wholesaler, if different from the distributor or point of origin; and

(6) the quantity of each type of product delivered.

(b) The information required in subsection (a) shall be provided to the purchaser in writing.

(c) For the purposes of this regulation, the term purchaser means a wholesaler, distributor, or retailer. (Authorized by K.S.A. 2000 Supp. 55-442, and K.S.A. 83-207; implementing K.S.A. 55-424, K.S.A. 2000 Supp. 55-442, and K.S.A. 83-206; effective Jan. 14, 1991; amended Jan. 18, 2002.)

99-40-21. (Authorized by and implementing K.S.A. 1993 Supp. 55-425; effective Aug. 22, 1994; revoked Jan. 18, 2002.)

99-40-22. (Authorized by and implementing K.S.A. 1993 Supp. 55-425; effective Aug. 22, 1994; revoked Jan. 18, 2002.)

99-40-23. (Authorized by and implementing K.S.A. 1993 Supp. 55-425; effective Aug. 22, 1994; revoked Jan. 18, 2002.)

99-40-24. (Authorized by and implementing K.S.A. 1993 Supp. 55-425; effective Aug. 22, 1994; revoked Jan. 18, 2002.)

99-40-25. (Authorized by and implementing K.S.A. 1993 Supp. 55-425; effective Aug. 22, 1994; revoked Jan. 18, 2002.)

99-40-26. (Authorized by and implementing K.S.A. 1993 Supp. 55-425; effective Aug. 22, 1994; revoked Jan. 18, 2002.)

99-40-27. (Authorized by and implementing K.S.A. 1993 Supp. 55-425; effective Aug. 22, 1994; revoked Jan. 18, 2002.)

99-40-28. (Authorized by and implementing K.S.A. 1993 Supp. 55-425; effective Aug. 22, 1994; revoked Jan. 18, 2002.)

99-40-29. (Authorized by and implement-

ing K.S.A. 1993 Supp. 55-425; effective Aug. 22, 1994; revoked Jan. 18, 2002.)

99-40-30. (Authorized by and implementing K.S.A. 1993 Supp. 55-425; effective Aug. 22, 1994; revoked Jan. 18, 2002.)

99-40-31. (Authorized by and implementing K.S.A. 1993 Supp. 55-425; effective Aug. 22, 1994; revoked Jan. 18, 2002.)

99-40-32. (Authorized by and implementing K.S.A. 1993 Supp. 55-425; effective Aug. 22, 1994; revoked Jan. 18, 2002.)

99-40-33. (Authorized by and implementing K.S.A. 1993 Supp. 55-425; effective Aug. 22, 1994; revoked Jan. 18, 2002.)

99-40-34. (Authorized by and implementing K.S.A. 1993 Supp. 55-425; effective Aug. 22, 1994; revoked Jan. 18, 2002.)

99-40-35. (Authorized by and implementing K.S.A. 1993 Supp. 55-425; effective Aug. 22, 1994; revoked Jan. 18, 2002.)

99-40-36. (Authorized by and implementing K.S.A. 1993 Supp. 55-425; effective Aug. 22, 1994; revoked Jan. 18, 2002.)

99-40-37. (Authorized by and implementing K.S.A. 1993 Supp. 55-425; effective Aug. 22, 1994; revoked Jan. 18, 2002.)

99-40-38. (Authorized by and implementing K.S.A. 1993 Supp. 55-425; effective Aug. 22, 1994; revoked Jan. 18, 2002.)

99-40-39. (Authorized by and implementing K.S.A. 1993 Supp. 55-425; effective Aug. 22, 1994; revoked Jan. 18, 2002.)

99-40-40. (Authorized by and implementing K.S.A. 1993 Supp. 55-425; effective Aug. 22, 1994; revoked Jan. 18, 2002.)

99-40-41. (Authorized by and implementing K.S.A. 1993 Supp. 55-425; effective Aug. 22, 1994; revoked Jan. 18, 2002.)

99-40-42. (Authorized by and implementing K.S.A. 1993 Supp. 55-425; effective Aug. 22, 1994; revoked Jan. 18, 2002.)

99-40-43. (Authorized by and implementing K.S.A. 1993 Supp. 55-425; effective Aug. 22, 1994; revoked Jan. 18, 2002.)

99-40-44. (Authorized by and implementing K.S.A. 1993 Supp. 55-425; effective Aug. 22, 1994; revoked Jan. 18, 2002.)

99-40-45. (Authorized by and implementing K.S.A. 1993 Supp. 55-425; effective Aug. 22, 1994; revoked Jan. 18, 2002.)

99-40-46. (Authorized by and implementing K.S.A. 1993 Supp. 55-425; effective Aug. 22, 1994; revoked Jan. 18, 2002.)

99-40-47. (Authorized by K.S.A. 1996 Supp. 83-207 and K.S.A. 1996 Supp. 55-442; implementing K.S.A. 1996 Supp. 83-304, as amended by L. 1997, Ch. 89, Sec. 1, K.S.A. 1996 Supp. 83-215, and K.S.A. 1996 Supp. 83-404; effective March 6, 1998; revoked Jan. 18, 2002.)

99-40-100. (Authorized by and implementing K.S.A. 1993 Supp. 55-443; effective Dec. 12, 1994; revoked Jan. 18, 2002.)

99-40-101. (Authorized by and implementing K.S.A. 1993 Supp. 55-443; effective Dec. 12, 1994; revoked Jan. 18, 2002.)

99-40-104. (Authorized by and implementing K.S.A. 1993 Supp. 55-443; effective Dec. 12, 1994; revoked Jan. 18, 2002.)

99-40-105. (Authorized by and implementing K.S.A. 1993 Supp. 55-443; effective Dec. 12, 1994; revoked Jan. 18, 2002.)